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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MARGARITA LOPEZ SANCHEZ.

Plaintiff.

VS.

JEFFREY MACOMBER; JENNIFER BARRETTO; DAVID LEWIS; BRANTLEY CHOATE; CONNIE GIPSON; RON DAVIS; DERRICK MARION; WILLIE DOBIE III; JEFFREY LYNCH; N. COLLINS; CHRISTIE ANGULO; L. HERRERA; Y. ARNOLD; YVETTE CASTILLO; DOE PONCE; and DOES 1 through 10, inclusive each individually,

Defendants.

Case No. 2:23-cv-01011-MCF-AC

FIRST AMENDED COMPLAINT FOR DAMAGES

[Honorable Morrison C. England, Jr.]

Pursuant to 42 U.S.C. §1983

1. Failure to Protect – Violation of the Eighth Amendment
 2. Denial of Familial Relationship, Due Process – Violation of the Fourteenth Amendment

Pursuant to State Law

- ### 3. Negligence

DEMAND FOR JURY TRIAL

1 **FIRST AMENDED COMPLAINT FOR DAMAGES**

2 COME NOW Plaintiff MARGARITA LOPEZ SANCHEZ for her Complaint
3 against Defendants JEFFREY MACOMBER; JENNIFER BARRETTO; DAVID
4 LEWIS; BRANTLEY CHOATE; CONNIE GIPSON; RON DAVIS; DERRICK
5 MARION; WILLIE DOBIE III; JEFFREY LYNCH; N. COLLINS; CHRISIE
6 ANGULO; L. HERRERA; Y. ARNOLD; YVETTE CASTILLO; DOE PONCE;
7 and DOES 1 through 10, inclusive each individually, alleging as follows:

8 **INTRODUCTION**

9 1. This civil rights action arises out of the May 6, 2022, tragic and
10 preventable death of Plaintiff's son, CAMILO BANOSLOPEZ ("Decedent"), which
11 was a consequence of a negligent and deliberate failure to provide protection by the
12 Defendants JEFFREY MACOMBER; JENNIFER BARRETTO; DAVID LEWIS;
13 BRANTLEY CHOATE; CONNIE GIPSON; RON DAVIS; DERRICK MARION;
14 WILLIE DOBIE III; and JEFFREY LYNCH (together called "Supervisor
15 Defendants"); and N. COLLINS; CHRISIE ANGULO; L. HERRERA; Y.
16 ARNOLD; YVETTE CASTILLO; DOE PONCE; and DOES 1-5 (together called
17 "Classification Officers"); and Defendant DOES 6-10 (together called "Correctional
18 Officers"), each individually.

19 2. Defendants failed to protect Decedent, placing him in a perilous
20 situation and exposing him to the known and substantial risk of harm by other
21 inmates. Consequently, this negligence and lack of protection caused and allowed
22 four (4) inmates, identified as Albert Calvillo, Irvin Rodriguez, Osbaldo Velasquez,
23 and Jose Avila (together called "Assailants"), to brutally attack and kill Decedent.

24 3. Decedent's mother, Plaintiff, seeks compensatory damages, punitive
25 damages, attorneys' fees, and costs from the Individual Defendants for violating her
26 and Decedent's rights guaranteed under federal and state law. Plaintiff also brings a
27 negligence claim under California state law against Defendants.

4. Defendants are directly liable for their nonfeasance and malfeasance and for Decedent's and Plaintiff's injuries, harm, and damages under federal law pursuant to 42 U.S.C. §1983 and under state law pursuant to Cal. Govt. Code §§820, 820.4, 820.8, and 821.8, and Cal. Code. of Civ. Pro. §§377.20, 377.30, 377.34, 377.60, 377.61, and 1021.5. The State of California, through California Department of Corrections and Rehabilitation (“CDCR”) and California State Prison Sacramento (“CSP-SAC”), are vicariously liable for the acts and omissions and for the nonfeasance and malfeasance of each Defendant pursuant to Cal. Govt. Code §§820(a), 815.2(a), and 815.6.

JURISDICTION AND VENUE

5. This Court has original jurisdiction pursuant to 28 U.S.C. §§1331 and 343(a)(3)-(4) because Plaintiff asserts claims arising under the laws of the United States including 42 U.S.C. §1983 and the Eighth and Fourteenth Amendments of the United States Constitution. This Court has supplemental jurisdiction over Plaintiff's claims arising under state law pursuant to 28 U.S.C. §1337(a), because those claims are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

6. Venue is proper in this Court under 28 U.S.C. § 391(b) because Defendants reside in this district and all incidents, events, and occurrences giving rise to this action occurred in this district.

PARTIES

7. CAMILO BANOSLOPEZ (“Decedent”), born May 20, 1999, died on May 6, 2022, at merely 22 years’ old, while in the custody and under the protection of the Defendant Supervisors, Classification Officers, and Correctional Officers at CDCR and CSP-SAC, in Folsom, Sacramento County, California. At the time of this incident, Decedent was housed within CSP-SAC.

8. Plaintiff MARGARITA LOPEZ SANCHEZ (“Plaintiff”) is an individual residing in the City of Glendora, California and is the mother of

1 Decedent. Plaintiff sues in her individual capacity for compensatory damages under
2 state and federal law, and for survival damages as Decedent's successor-in-interest
3 pursuant to California Code of Civil Procedure §§ 377.30 and 377.60.

4 9. In his individual capacity, at all relevant times, Defendant JEFFREY
5 MACOMBER ("Macomber"), Secretary of CDCR, appointed by Governor Gavin
6 Newsom, was and is a duly appointed State official and/or agent through CDCR and
7 CSP-SAC, with the direct responsibility to operate, administer, and manage all state-
8 operated adult prisons, including CDCR and CSP-SAC, subject to the oversight and
9 supervision of the State of California, CDCR, and CSP-SAC'S elected and non-
10 elected officials. Macomber was and is fully aware of the negligent operation and
11 security of CDCR and specifically CSP-SAC, given his three decades of experience
12 including Correctional Officer, various roles at CDCR Headquarters, Correctional
13 Business Manager at Richard A. McGee Correctional Training Center, Chief of the
14 Program Support Unit and Transportation Unit, CSP-SAC Correctional
15 Administrator, CSP-SAC Chief Deputy Warden, CSP-SAC Warden, Deputy
16 Director of Facility Support in the Division of Adult Institutions, Director of
17 Corrections Services for California Correctional Health Care Services,
18 Undersecretary of Administration, and Undersecretary of Operations. Defendant
19 Macomber was at all relevant times responsible for devising and implementing
20 security and safety policies, procedures, and training for the safe housing,
21 classification, escorting, protecting, and monitoring of inmates as well as all
22 policies, procedures, and training for preventing, and responding to inmate-on-
23 inmate attacks, violence, and disturbances. Defendant Macomber was and is directly
24 responsible for the supervision, training, hiring, retention, discipline, and conduct of
25 each and every individual Defendant. Specifically, Defendant Macomber was and is
26 responsible for the improper organization of inmate housing at CSP-SAC, the
27 improper classification of inmates at CSP-SAC, the improper security and reaction
28 to violence of inmates at CSP-SAC, and the improper customs and practices for the

1 movement of inmates at CSP-SAC. At all relevant times, Defendant Macomber
2 acted under color of law, to wit, under the color of the statutes, ordinances,
3 regulations, policies, customs, and usages of the State of California, CDCR, and
4 CSP-SAC and under the color of the statutes and regulations of the State of
5 California. On information and belief, Defendant Macomber is and was at all
6 relevant times a resident of this judicial district.

7 10. In her individual capacity, at all relevant times, Defendant JENNIFER
8 BARRETTO (“Barretto”) was a duly appointed Undersecretary of Administration of
9 CDCR and CSP-SAC, previously Deputy Director and Facility Support for Division
10 of Adult Institutions, and previously Chief Deputy Administrator of Correctional
11 Programs, with the direct responsibility to operate, administer, and manage all state-
12 operated adult prisons, including CDCR and CSP-SAC, subject to the oversight and
13 supervision of the State of California, CDCR, and CSP-SAC’s elected and non-
14 elected officials. Defendant Barretto was at all relevant times responsible for
15 devising and implementing security and safety policies, procedures, and training for
16 the safe housing, classification, escorting, protecting, and monitoring of inmates as
17 well as all policies, procedures, and training for preventing, and responding to
18 inmate-on-inmate attacks, violence, and disturbances. Defendant Barretto was and is
19 directly responsible for the supervision, training, hiring, retention, discipline, and
20 conduct of the Individual Defendants. Specifically, Defendant Barretto was and is
21 responsible for the improper organization of inmate housing at CSP-SAC, the
22 improper classification of inmates at CSP-SAC, the improper security and reaction
23 to violence of inmates at CSP-SAC, and the improper customs and practices for the
24 movement of inmates at CSP-SAC. At all relevant times, Defendant Barretto acted
25 under color of law, under the statutes and regulations of the State of California. On
26 information and belief, Defendant Barretto is and was at all relevant times a resident
27 of this judicial district.

28

1 11. In his individual capacity, at all relevant times, Defendant DAVID
2 LEWIS (“Lewis”), was a duly appointed Director of the Division of Facility
3 Planning, Construction and Management, of CDCR and CSP-SAC, with the direct
4 responsibility to operate, administer, and manage all state-operated adult prisons,
5 including CDCR and CSP-SAC, subject to the oversight and supervision of the State
6 of California, CDCR, and CSP-SAC’S elected and non-elected officials. Defendant
7 Lewis was at all relevant times responsible for devising and implementing security
8 and safety policies, procedures, and training for the safe housing, classification,
9 escorting, protecting, and monitoring of inmates as well as all policies, procedures,
10 and training for preventing, and responding to inmate-on-inmate attacks, violence,
11 and disturbances. Defendant Lewis was and is directly responsible for the
12 supervision, training, hiring, retention, discipline, and conduct of the Individual
13 Defendants. Specifically, Defendant Lewis was and is responsible for the improper
14 organization of inmate housing at CSP-SAC, the improper classification of inmates
15 at CSP-SAC, the improper security and reaction to violence of inmates at CSP-SAC,
16 and the improper customs and practices for the movement of inmates at CSP-SAC.
17 At all relevant times, Defendant Lewis acted under color of law, to wit, under the
18 color of the statutes, ordinances, regulations, policies, customs, and usages of the
19 State of California, CDCR, and CSP-SAC and under the color of the statutes and
20 regulations of the State of California. On information and belief, Defendant Lewis is
21 and was at all relevant times a resident of this judicial district.

22 12. In his individual capacity, at all relevant times, Defendant BRANTLEY
23 CHOATE (“Choate”) was a duly appointed Director – Division of Rehabilitative
24 Programs of CDCR and CSP-SAC, with the direct responsibility to operate,
25 administer, and manage all state-operated adult prisons, including CDCR and CSP-
26 SAC, subject to the oversight and supervision of the State of California, CDCR, and
27 CSP-SAC’s elected and non-elected officials. Defendant Choate was at all relevant
28 times responsible for devising and implementing security and safety policies,

1 procedures, and training for the safe housing, classification, escorting, protecting,
2 and monitoring of inmates as well as all policies, procedures, and training for
3 preventing, and responding to inmate-on-inmate attacks, violence, and disturbances.
4 Defendant Choate was and is directly responsible for the supervision, training,
5 hiring, retention, discipline, and conduct of the Individual Defendants. Specifically,
6 Defendant Choate was and is responsible for the improper organization of inmate
7 housing at CSP-SAC, the improper classification of inmates at CSP-SAC, the
8 improper security and reaction to violence of inmates at CSP-SAC, and the
9 improper customs and practices for the movement of inmates at CSP-SAC. At all
10 relevant times, Defendant Choate acted under color of law, to wit, under the color of
11 the statutes, ordinances, regulations, policies, customs, and usages of the State of
12 California, CDCR, and CSP-SAC and under the color of the statutes and regulations
13 of the State of California. On information and belief, Defendant Choate is and was
14 at all relevant times a resident of this judicial district.

15 13. In her individual capacity, at all relevant times, Defendant CONNIE
16 GIPSON (“Gibson”) was a duly appointed Director – Division of Adult Institutions
17 of CDCR and CSP-SAC, with the direct responsibility to operate, administer, and
18 manage all state-operated adult prisons, including CDCR and CSP-SAC, subject to
19 the oversight and supervision of the State of California, CDCR, and CSP-SAC’S
20 elected and non-elected officials. Defendant Gibson was at all relevant times
21 responsible for devising and implementing security and safety policies, procedures,
22 and training for the safe housing, classification, escorting, protecting, and
23 monitoring of inmates as well as all policies, procedures, and training for
24 preventing, and responding to inmate-on-inmate attacks, violence, and disturbances.
25 Defendant Gibson was and is directly responsible for the supervision, training,
26 hiring, retention, discipline, and conduct of the Individual Defendants. Specifically,
27 Defendant Gibson was and is responsible for the improper organization of inmate
28 housing at CSP-SAC, the improper classification of inmates at CSP-SAC, the

1 improper security and reaction to violence of inmates at CSP-SAC, and the
2 improper customs and practices for the movement of inmates at CSP-SAC. At all
3 relevant times, Defendant Gibson acted under color of law, to wit, under the color of
4 the statutes, ordinances, regulations, policies, customs, and usages of the State of
5 California, CDCR, and CSP-SAC and under the color of the statutes and regulations
6 of the State of California. On information and belief, Defendant Gibson is and was
7 at all relevant times a resident of this judicial district.

8 14. In his individual capacity, at all relevant times, Defendant RON
9 DAVIS (“Davis”) was a duly appointed Acting Deputy Director, Facility Operations
10 – Division of Adult Institutions of CDCR and CSP-SAC, with the direct
11 responsibility to operate, administer, and manage all state-operated adult prisons,
12 including CDCR and CSP-SAC, subject to the oversight and supervision of the State
13 of California, CDCR, and CSP-SAC’s elected and non-elected officials. Defendant
14 Davis was at all relevant times responsible for devising and implementing security
15 and safety policies, procedures, and training for the safe housing, classification,
16 escorting, protecting, and monitoring of inmates as well as all policies, procedures,
17 and training for preventing, and responding to inmate-on-inmate attacks, violence,
18 and disturbances. Defendant Davis was and is directly responsible for the
19 supervision, training, hiring, retention, discipline, and conduct of the Individual
20 Defendants. Specifically, Defendant Davis was and is responsible for the improper
21 organization of inmate housing at CSP-SAC, the improper classification of inmates
22 at CSP-SAC, the improper security and reaction to violence of inmates at CSP-SAC,
23 and the improper customs and practices for the movement of inmates at CSP-SAC.
24 At all relevant times, Defendant Davis acted under color of law, to wit, under the
25 color of the statutes, ordinances, regulations, policies, customs, and usages of the
26 State of California, CDCR, and CSP-SAC and under the color of the statutes and
27 regulations of the State of California. On information and belief, Defendant Davis is
28 and was at all relevant times a resident of this judicial district.

1 15. In his individual capacity, at all relevant times, Defendant DERRICK
2 MARION (“Marion”) was a duly appointed Chief, Office of Correctional Safety of
3 CDCR and CSP-SAC, with the direct responsibility to operate, administer, and
4 manage all state-operated adult prisons, including CDCR and CSP-SAC, subject to
5 the oversight and supervision of the State of California, CDCR, and CSP-SAC’s
6 elected and non-elected officials. Defendant Marion was at all relevant times
7 responsible for devising and implementing security and safety policies, procedures,
8 and training for the safe housing, classification, escorting, protecting, and
9 monitoring of inmates as well as all policies, procedures, and training for
10 preventing, and responding to inmate-on-inmate attacks, violence, and disturbances.
11 Defendant Marion was and is directly responsible for the supervision, training,
12 hiring, retention, discipline, and conduct of the Individual Defendants. Specifically,
13 Defendant Marion was and is responsible for the improper organization of inmate
14 housing at CSP-SAC, the improper classification of inmates at CSP-SAC, the
15 improper security and reaction to violence of inmates at CSP-SAC, and the
16 improper customs and practices for the movement of inmates at CSP-SAC. At all
17 relevant times, Defendant Marion acted under color of law, to wit, under the color of
18 the statutes, ordinances, regulations, policies, customs, and usages of the State of
19 California, CDCR, and CSP-SAC and under the color of the statutes and regulations
20 of the State of California. On information and belief, Defendant Marion is and was
21 at all relevant times a resident of this judicial district.

22 16. In his individual capacity, at all relevant times, Defendant WILLIE
23 DOBIE III (“Dobie”) was a duly appointed Chief – Office of Policy Standardization
24 – Division of Adult Institutions of CDCR and CSP-SAC, previously Correctional
25 Lieutenant and Captain, with the direct responsibility to operate, administer, and
26 manage all state-operated adult prisons, including CDCR and CSP-SAC, subject to
27 the oversight and supervision of the State of California, CDCR, and CSP-SAC’s
28 elected and non-elected officials. Defendant Dobie was at all relevant times

1 responsible for devising and implementing security and safety policies, procedures,
2 and training for the safe housing, classification, escorting, protecting, and
3 monitoring of inmates as well as all policies, procedures, and training for
4 preventing, and responding to inmate-on-inmate attacks, violence, and disturbances.
5 Defendant Dobie was and is directly responsible for the supervision, training, hiring,
6 retention, discipline, and conduct of the Individual Defendants. Specifically,
7 Defendant Dobie was and is responsible for the improper organization of inmate
8 housing at CSP-SAC, the improper classification of inmates at CSP-SAC, the
9 improper security and reaction to violence of inmates at CSP-SAC, and the
10 improper customs and practices for the movement of inmates at CSP-SAC. At all
11 relevant times, Defendant Dobie acted under color of law, to wit, under the color of
12 the statutes, ordinances, regulations, policies, customs, and usages of the State of
13 California, CDCR, and CSP-SAC and under the color of the statutes and regulations
14 of the State of California. On information and belief, Defendant Dobie is and was at
15 all relevant times a resident of this judicial district.

16 17. In his individual capacity, at all relevant times, Defendant JEFFREY
17 LYNCH (“Lynch”) was and is the Warden for CDCR, with the direct responsibility
18 to operate, administer, and manage all state-operated adult prisons, including CDCR
19 and CSP-SAC, subject to the oversight and supervision of the State of California,
20 CDCR, and CSP-SAC’s elected and non-elected officials. Defendant Lynch
21 personally devised, planned, and effectuated the immediate supervision, policies,
22 and action taken by correctional staff, including officers and counselors, at CSP-
23 SAC, which is largely a level IV maximum security prison in Folsom, California
24 where Plaintiff’s and Decedent’s injuries arose. Defendant Lynch was at all relevant
25 times responsible for devising and implementing security and safety policies,
26 procedures, and training for the safe housing, escorting, and monitoring of inmates
27 as well as all policies, procedures, and training for preventing, and responding to
28 inmate-on-inmate attacks, violence, and disturbances. Defendant Lynch was and is

1 directly responsible for the supervision, training, hiring, retention, discipline, and
2 conduct of the Individual Defendants. Specifically, Defendant Lynch was and is
3 responsible for the improper organization of inmate housing at CSP-SAC, the
4 improper classification of inmates at CSP-SAC, the improper security and reaction
5 to violence of inmates at CSP-SAC, and the improper customs and practices for the
6 movement of inmates at CSP-SAC. At all relevant times, Defendant Lynch acted
7 under color of law, to wit, under the color of the statutes, ordinances, regulations,
8 policies, customs, and usages of the State of California, CDCR, and CSP-SAC and
9 under the color of the statutes and regulations of the State of California. On
10 information and belief, Defendant Lynch is and was at all relevant times a resident
11 of this judicial district.

12 18. In an individual capacity, at all relevant times, Defendant N. COLLINS
13 (“Collins”) was a duly appointed Correctional Case Records Analyst (“CCRA”) and
14 agent of Supervisor Defendants, and the State of California, CDCR, and CSP-SAC,
15 subject to the oversight and supervision of the State of California, CDCR, and CSP-
16 SAC’S elected and non-elected officials, including Supervisor Defendants; assigned
17 to Case Records, individually and personally interacted with Decedent by and
18 through Decedent requesting an interview. Decedent specifically informed N.
19 Collins that his classification was inappropriately made on or about February 27,
20 2022 and March 10, 2022, several months prior to his death, providing N. Collins
21 ample time and opportunity to correct the failure to properly classify and protect
22 Decedent. At all relevant times, Defendant Collins acted under color of law, to wit,
23 under the color of the statutes, ordinances, regulations, policies, customs, and usages
24 of the State of California, CDCR, and CSP-SAC and under the color of the statutes
25 and regulations of the State of California. At all relevant times, N. Collins acted
26 within the course and scope of his or her employment with CSP-SAC, including
27 concerning the means by which the life and safety of inmates were secured, the
28 criteria for placing different groups of inmates together in custody, the placement of

1 an inmate in areas of CSP-SAC appropriate to safeguard the life and safety of the
2 inmates, the manner in which threats to the life and safety of an inmate were to be
3 evaluated and acted upon, what safeguards were in place to prevent inmates who
4 posed a threat to others in the facility from being permitted physical access to
5 others, what actions were taken when an inmate is attacked or injured while
6 incarcerated, and what methods of surveillance were to be used within each facility
7 to insure immediate response to prevent or lessen incidents of violence occurring in
8 the facility. On information and belief, Defendant Collins is and was at all relevant
9 times a resident of this judicial district.

10 19. In an individual capacity, at all relevant times, Defendant CHRISTIE
11 ANGULO (“Angulo”) was a duly appointed Correctional Counselor and agent of
12 Supervisor Defendants, and the State of California, CDCR, and CSP-SAC, subject
13 to the oversight and supervision of the State of California, CDCR, and CSP-SAC’S
14 elected and non-elected officials, including Supervisor Defendants; individually and
15 personally interacted with and interviewed Decedent as committee member of
16 Decedent’s Unit Classification Committee (“UCC”) on March 25, 2022, which was
17 several months prior to his death, providing Defendant Angulo ample time and
18 opportunity to correct the failure to properly classify Decedent and to protect
19 Decedent from attack. Defendant Angulo had the specific responsibility to classify
20 and house Decedent in a location and area that would protect him from the known
21 and obvious threat of the assailants. At all relevant times, Defendant Angulo acted
22 under color of law, to wit, under the color of the statutes, ordinances, regulations,
23 policies, customs, and usages of the State of California, CDCR, and CSP-SAC and
24 under the color of the statutes and regulations of the State of California. At all
25 relevant times, Defendant Angulo acted within the course and scope of her
26 employment with CSP-SAC, including concerning the means by which the life and
27 safety of inmates were secured, the criteria for placing different groups of inmates
28 together in custody, the placement of an inmate in areas of CSP-SAC appropriate to

1 safeguard the life and safety of the inmates, the manner in which threats to the life
2 and safety of an inmate were to be evaluated and acted upon, what safeguards were
3 in place to prevent inmates who posed a threat to others in the facility from being
4 permitted physical access to others, what actions were taken when an inmate is
5 attacked or injured while incarcerated, and what methods of surveillance were to be
6 used within each facility to insure immediate response to prevent or lessen incidents
7 of violence occurring in the facility. On information and belief, Defendant Angulo is
8 and was at all relevant times a resident of this judicial district.

9 20. In an individual capacity, at all relevant times, Defendant L.
10 HERRERA (“Herrera”) was a duly appointed Assigned Case Records Analyst and
11 agent of Supervisor Defendants, and the State of California, CDCR, and CSP-SAC,
12 subject to the oversight and supervision of the State of California, CDCR, and CSP-
13 SAC’S elected and non-elected officials, including Supervisor Defendants;
14 individually and had a personally responsibility to protect through classification of
15 Decedent, as part of his UCC, prior to his death. Defendant Herrera had the specific
16 responsibility to classify and house Decedent in a location and area that would
17 protect him from the known and obvious threat of the assailants. At all relevant
18 times, Defendant Herrera acted under color of law, to wit, under the color of the
19 statutes, ordinances, regulations, policies, customs, and usages of the State of
20 California, CDCR, and CSP-SAC and under the color of the statutes and regulations
21 of the State of California. At all relevant times, Defendant Herrera acted within the
22 course and scope of his or her employment with CSP-SAC, including concerning
23 the means by which the life and safety of inmates were secured, the criteria for
24 placing different groups of inmates together in custody, the placement of an inmate
25 in areas of CSP-SAC appropriate to safeguard the life and safety of the inmates, the
26 manner in which threats to the life and safety of an inmate were to be evaluated and
27 acted upon, what safeguards were in place to prevent inmates who posed a threat to
28 others in the facility from being permitted physical access to others, what actions

1 were taken when an inmate is attacked or injured while incarcerated, and what
2 methods of surveillance were to be used within each facility to insure immediate
3 response to prevent or lessen incidents of violence occurring in the facility. On
4 information and belief, Defendant Herrera is and was at all relevant times a resident
5 of this judicial district

6 21. In an individual capacity, at all relevant times, Defendant Y. ARNOLD
7 ("Arnold") was a duly appointed Correctional Counselor and agent of Supervisor
8 Defendants, and the State of California, CDCR, and CSP-SAC, subject to the
9 oversight and supervision of the State of California, CDCR, and CSP-SAC'S elected
10 and non-elected officials, including Supervisor Defendants; individually and
11 personally interacted with and interviewed Decedent as committee member of
12 Decedent's UCC, which was several months prior to his death, providing Defendant
13 Arnold ample time and opportunity to correct the failure to properly classify
14 Decedent and to protect Decedent from attack. Defendant Arnold had the specific
15 responsibility to classify and house Decedent in a location and area that would
16 protect him from the known and obvious threat of the assailants. At all relevant
17 times, Defendant Arnold acted under color of law, to wit, under the color of the
18 statutes, ordinances, regulations, policies, customs, and usages of the State of
19 California, CDCR, and CSP-SAC and under the color of the statutes and regulations
20 of the State of California. At all relevawasimes, Defendant Arnold acted within the
21 course and scope of her employment with CSP-SAC, including concerning the
22 means by which the life and safety of inmates were secured, the criteria for placing
23 different groups of inmates together in custody, the placement of an inmate in areas
24 of CSP-SAC appropriate to safeguard the life and safety of the inmates, the manner
25 in which threats to the life and safety of an inmate were to be evaluated and acted
26 upon, what safeguards were in place to prevent inmates who posed a threat to others
27 in the facility from being permitted physical access to others, what actions were
28 taken when an inmate is attacked or injured while incarcerated, and what methods of

1 surveillance were to be used within each facility to insure immediate response to
2 prevent or lessen incidents of violence occurring in the facility. On information and
3 belief, Defendant Arnold is and was at all relevant times a resident of this judicial
4 district.

5 22. In an individual capacity, at all relevant times, Defendant YVETTE
6 CASTILLO (“Castillo”) was a duly appointed Correctional Counselor and agent of
7 Supervisor Defendants, and the State of California, CDCR, and CSP-SAC, subject
8 to the oversight and supervision of the State of California, CDCR, and CSP-SAC’S
9 elected and non-elected officials, including Supervisor Defendants; individually and
10 personally interacted with and interviewed Decedent as committee member of
11 Decedent’s UCC, which was several months prior to his death, providing Defendant
12 Castillo ample time and opportunity to correct the failure to properly classify
13 Decedent and to protect Decedent from attack. Defendant Castillo had the specific
14 responsibility to classify and house Decedent in a location and area that would
15 protect him from the known and obvious threat of the assailants. At all relevant
16 times, Defendant Castillo acted under color of law, to wit, under the color of the
17 statutes, ordinances, regulations, policies, customs, and usages of the State of
18 California, CDCR, and CSP-SAC and under the color of the statutes and regulations
19 of the State of California. At all relevant times, Defendant Castillo acted within the
20 course and scope of her employment with CSP-SAC, including concerning the
21 means by which the life and safety of inmates were secured, the criteria for placing
22 different groups of inmates together in custody, the placement of an inmate in areas
23 of CSP-SAC appropriate to safeguard the life and safety of the inmates, the manner
24 in which threats to the life and safety of an inmate were to be evaluated and acted
25 upon, what safeguards were in place to prevent inmates who posed a threat to others
26 in the facility from being permitted physical access to others, what actions were
27 taken when an inmate is attacked or injured while incarcerated, and what methods of
28 surveillance were to be used within each facility to insure immediate response to

1 prevent or lessen incidents of violence occurring in the facility. On information and
2 belief, Defendant Castillo is and was at all relevant times a resident of this judicial
3 district.

4 23. In an individual capacity, at all relevant times, Defendant DOE PONCE
5 (“Ponce”) was a duly appointed Assigned Transitional Counselor and agent of
6 Supervisor Defendants, and the State of California, CDCR, and CSP-SAC, subject
7 to the oversight and supervision of the State of California, CDCR, and CSP-SAC’S
8 elected and non-elected officials, including Supervisor Defendants; individually and
9 had a personal responsibility as part of Decedent’s UCC, which was several months
10 prior to his death, providing Defendant Ponce ample time and opportunity to correct
11 the failure to properly classify Decedent and to protect Decedent from attack.
12 Defendant Ponce had the specific responsibility to classify and house Decedent in a
13 location and area that would protect him from the known and obvious threat of the
14 assailants. At all relevant times, Defendant Ponce acted under color of law, to wit,
15 under the color of the statutes, ordinances, regulations, policies, customs, and usages
16 of the State of California, CDCR, and CSP-SAC and under the color of the statutes
17 and regulations of the State of California. At all relevant times, Defendant Ponce
18 acted within the course and scope of her employment with CSP-SAC, including
19 concerning the means by which the life and safety of inmates were secured, the
20 criteria for placing different groups of inmates together in custody, the placement of
21 an inmate in areas of CSP-SAC appropriate to safeguard the life and safety of the
22 inmates, the manner in which threats to the life and safety of an inmate were to be
23 evaluated and acted upon, what safeguards were in place to prevent inmates who
24 posed a threat to others in the facility from being permitted physical access to
25 others, what actions were taken when an inmate is attacked or injured while
26 incarcerated, and what methods of surveillance were to be used within each facility
27 to insure immediate response to prevent or lessen incidents of violence occurring in
28

1 the facility. On information and belief, Defendant Ponce is and was at all relevant
2 times a resident of this judicial district.

3 24. In his or her individual capacity, at all relevant times, Defendant DOE
4 1 was a Correctional Counsellor and UCC Supervisor duly appointed employee or
5 agent of the State of California, CDCR, and CSP-SAC, subject to the oversight and
6 supervision of Defendants Macomber, Barretto, Lewis, Choate, Gipson, Davis,
7 Marion, Dobie, and Lynch, and the State of California, CDCR, and CSP-SAC'S
8 elected and non-elected officials. At all relevant times, Defendant DOE 1 acted
9 under color of law, to wit, under the color of the statutes, ordinances, regulations,
10 policies, customs, and usages of the State of California, CDCR, and CSP-SAC and
11 under the color of the statutes and regulations of the State of California. At all
12 relevant times, Defendant DOE 1 acted within the course and scope of his or her
13 employment with CSP-SAC, including concerning the means by which the life and
14 safety of inmates were secured, the criteria for placing different groups of inmates
15 together in custody, the placement of an inmate in areas of CSP-SAC appropriate to
16 safeguard the life and safety of the inmates, the manner in which threats to the life
17 and safety of an inmate were to be evaluated and acted upon, what safeguards were
18 in place to prevent inmates who posed a threat to others in the facility from being
19 permitted physical access to others, what actions were taken when an inmate is
20 attacked or injured while incarcerated, and what methods of surveillance were to be
21 used within each facility to insure immediate response to prevent or lessen incidents
22 of violence occurring in the facility. On information and belief, Defendant DOE 1 is
23 and was at all relevant times a resident of this judicial district.

24 25. In his or her individual capacity, at all relevant times, Defendant DOE
25 2 was a Classification Staff Representatives (“CSR”), Auditor, and/or UCC
26 Supervisor duly appointed employee or agent of the State of California, CDCR, and
27 CSP-SAC, subject to the oversight and supervision of Defendants Macomber,
28 Barretto, Lewis, Choate, Gipson, Davis, Marion, Dobie, and Lynch, and the State of

1 California, CDCR, and CSP-SAC'S elected and non-elected officials. At all relevant
2 times, Defendant DOE 2 acted under color of law, to wit, under the color of the
3 statutes, ordinances, regulations, policies, customs, and usages of the State of
4 California, CDCR, and CSP-SAC and under the color of the statutes and regulations
5 of the State of California. At all relevant times, Defendant DOE 2 acted within the
6 course and scope of his or her employment with CSP-SAC, including concerning
7 the means by which the life and safety of inmates were secured, the criteria for
8 placing different groups of inmates together in custody, the placement of an inmate
9 in areas of CSP-SAC appropriate to safeguard the life and safety of the inmates, the
10 manner in which threats to the life and safety of an inmate were to be evaluated and
11 acted upon, what safeguards were in place to prevent inmates who posed a threat to
12 others in the facility from being permitted physical access to others, what actions
13 were taken when an inmate is attacked or injured while incarcerated, and what
14 methods of surveillance were to be used within each facility to insure immediate
15 response to prevent or lessen incidents of violence occurring in the facility. It was
16 Defendant DOE 2's individual responsibility to audit Decedent's and the assailant's
17 classifications to ensure that they were correct and protected Decedent. On
18 information and belief, Defendant DOE 2 is and was at all relevant times a resident
19 of this judicial district.

20 26. In his or her individual capacity, at all relevant times, Defendant DOE
21 3 was a Correctional Counsellor and UCC Recorder duly appointed employee or
22 agent of the State of California, CDCR, and CSP-SAC, subject to the oversight and
23 supervision of Defendants Macomber, Barretto, Lewis, Choate, Gipson, Davis,
24 Marion, Dobie, and Lynch, and the State of California, CDCR, and CSP-SAC'S
25 elected and non-elected officials. At all relevant times, Defendant DOE 3 acted
26 under color of law, to wit, under the color of the statutes, ordinances, regulations,
27 policies, customs, and usages of the State of California, CDCR, and CSP-SAC and
28 under the color of the statutes and regulations of the State of California. At all

1 relevant times, Defendant DOE 3 acted within the course and scope of his or her
2 employment with CSP-SAC, including concerning the means by which the life and
3 safety of inmates were secured, the criteria for placing different groups of inmates
4 together in custody, the placement of an inmate in areas of CSP-SAC appropriate to
5 safeguard the life and safety of the inmates, the manner in which threats to the life
6 and safety of an inmate were to be evaluated and acted upon, what safeguards were
7 in place to prevent inmates who posed a threat to others in the facility from being
8 permitted physical access to others, what actions were taken when an inmate is
9 attacked or injured while incarcerated, and what methods of surveillance were to be
10 used within each facility to insure immediate response to prevent or lessen incidents
11 of violence occurring in the facility. Defendant DOE 3 was specifically and
12 individually responsible for collecting, researching, and presenting all relevant
13 information regarding Decedent and Assailant's classifications so that the UCC can
14 make an informed decision. On information and belief, Defendant DOE 3 is and was
15 at all relevant times a resident of this judicial district.

16 27. Upon information and belief, at all relevant times, Defendant DOES 1-
17 5 (or "Classification DOES"), were and are in their individual capacities, duly
18 appointed agents of CDCR and CSP-SAC, subject to the oversight and supervision
19 of the State of California, CDCR, and CSP-SAC'S elected and non-elected officials.
20 Defendant DOES 1-5 were Correctional Counselors and parties to the UCC for
21 Decedent and Assailants. At all relevant times, Defendant DOES 1-5 acted under
22 color of law, to wit, under the color of the statutes, ordinances, regulations, policies,
23 customs, and usages of the State of California, CDCR, and CSP-SAC and under the
24 color of the statutes and regulations of the State of California. At all relevant times,
25 Defendant DOES 1-5 acted within the course and scope of their employment with
26 CSP-SAC, including concerning the means by which the life and safety of inmates
27 were secured, the criteria for placing different groups of inmates together in custody,
28 the placement of an inmate in areas of CSP-SAC appropriate to safeguard the life

1 and safety of the inmates, the manner in which threats to the life and safety of an
2 inmate were to be evaluated and acted upon, what safeguards were in place to
3 prevent inmates who posed a threat to others in the facility from being permitted
4 physical access to others, what actions were taken when an inmate is attacked or
5 injured while incarcerated, and what methods of surveillance were to be used within
6 each facility to insure immediate response to prevent or lessen incidents of violence
7 occurring in the facility. On information and belief, Defendant DOES 1-5 are and
8 were at all relevant times residents of this judicial district.

9 28. Upon information and belief, Defendant Classification DOES had
10 specific personal knowledge derived from each inmates' C-File and UCC Hearings,
11 including with regard to Decedent and Assailants, as to all factors that must be taken
12 into consideration for the proper classification of inmate, such as criminal history,
13 gang affiliation, violent disposition, enemies lists, and concerns for inmate safety,
14 well in advance of this incident. Defendant Classification DOES were deficient and
15 deliberately indifferent in their failure to protect and classify Decedent knowing that
16 he would be exposed without adequate protection and surveillance to Assailants.

17 29. In his or her individual capacity, at all relevant times, Defendant DOE
18 6 was a duly appointed Correctional Officer, employee or agent of the State of
19 California, CDCR, and CSP-SAC, subject to the oversight and supervision of the
20 Supervisor Defendants and the State of California, CDCR, and CSP-SAC'S elected
21 and non-elected officials. At all relevant times, Defendant DOE 6 acted under color
22 of law, to wit, under the color of the statutes, ordinances, regulations, policies,
23 customs, and usages of the State of California, CDCR, and CSP-SAC and under the
24 color of the statutes and regulations of the State of California. At all relevant times,
25 Defendant DOE 6 acted within the course and scope of his employment with CSP-
26 SAC, including concerning the means by which the life and safety of inmates were
27 secured and protected, the manner in which threats to the life and safety of an
28 inmate were to be acted upon, what safeguards were in place to prevent inmates who

1 posed a threat to others in the facility from being permitted physical access to
2 others, what actions were taken when an inmate is attacked or injured while
3 incarcerated, and what methods of inspection and surveillance were to be used
4 within each facility to insure prevention and immediate response to prevent or lessen
5 incidents of violence occurring in the facility. Defendant DOE 6 was specifically
6 assigned to guard, monitor, safeguard, and protect Decedent in the Yard where the
7 incident occurred. Defendant DOE 6 was and is responsible for the reckless
8 disregard for the life and safety of Decedent by his actions and inactions in allowing
9 the violent attack to occur, failing to timely stop it, and failing to properly render
10 medical aid to Decedent. On information and belief, Defendant DOE 6 is and was at
11 all relevant times a resident of this judicial district.

12 30. In his or her individual capacity, at all relevant times, Defendant DOE
13 7 was a duly appointed Correctional Officer, employee or agent of the State of
14 California, CDCR, and CSP-SAC, subject to the oversight and supervision of the
15 Supervisor Defendants and the State of California, CDCR, and CSP-SAC'S elected
16 and non-elected officials. At all relevant times, Defendant DOE 7 acted under color
17 of law, to wit, under the color of the statutes, ordinances, regulations, policies,
18 customs, and usages of the State of California, CDCR, and CSP-SAC and under the
19 color of the statutes and regulations of the State of California. At all relevant times,
20 Defendant DOE 7 acted within the course and scope of his employment with CSP-
21 SAC, including concerning the means by which the life and safety of inmates were
22 secured and protected, the manner in which threats to the life and safety of an
23 inmate were to be acted upon, what safeguards were in place to prevent inmates who
24 posed a threat to others in the facility from being permitted physical access to
25 others, what actions were taken when an inmate is attacked or injured while
26 incarcerated, and what methods of inspection and surveillance were to be used
27 within each facility to insure prevention and immediate response to prevent or lessen
28 incidents of violence occurring in the facility. Defendant DOE 7 was specifically

1 assigned to guard, monitor, safeguard, and protect Decedent in the Yard where the
2 incident occurred. Defendant DOE 7 was and is responsible for the reckless
3 disregard for the life and safety of Decedent by his actions and inactions in allowing
4 the violent attack to occur, failing to timely stop it, and failing to properly render
5 medical aid to Decedent. On information and belief, Defendant DOE 7 is and was at
6 all relevant times a resident of this judicial district.

7 31. In his or her individual capacity, at all relevant times, Defendant DOE
8 was a duly appointed employee or agent of the State of California, CDCR, and
9 CSP-SAC, subject to the oversight and supervision of Supervisor Defendants and
10 the State of California, CDCR, and CSP-SAC'S elected and non-elected officials. At
11 all relevant times, Defendant DOE 8 acted under color of law, to wit, under the color
12 of the statutes, ordinances, regulations, policies, customs, and usages of the State of
13 California, CDCR, and CSP-SAC and under the color of the statutes and regulations
14 of the State of California. At all relevant times, Defendant DOE 8 acted within the
15 course and scope of his or her employment with CSP-SAC, including concerning
16 the means by which the life and safety of inmates were secured and protected, the
17 manner in which threats to the life and safety of an inmate were to be acted upon,
18 what safeguards were in place to prevent inmates who posed a threat to others in the
19 facility from being permitted physical access to others, what actions were taken
20 when an inmate is attacked or injured while incarcerated, and what methods of
21 inspection and surveillance were to be used within each facility to insure prevention
22 and immediate response to prevent or lessen incidents of violence occurring in the
23 facility. Defendant DOE 8 was specifically assigned to guard, monitor, safeguard,
24 and protect Decedent in the Yard where the incident occurred. Defendant DOE 8
25 was and is responsible for the reckless disregard for the life and safety of Decedent
26 by his or her actions and inactions in allowing the violent attack to occur and failing
27 to timely stop it. Defendant DOE 8 was armed with a rifle capable of being utilized
28 and specifically trained to be utilized to protect Decedent from the substantial risk of

1 death or serious bodily injury when being attacked by inmates but failed to use any
2 force as required under these circumstances. On information and belief, Defendant
3 DOE 8 is and was at all relevant times a resident of this judicial district.

4 32. In his or her individual capacity, at all relevant times, Defendant DOE
5 9 was a duly appointed employee or agent of the State of California, CDCR, and
6 CSP-SAC, subject to the oversight and supervision of Supervisor Defendants and
7 the State of California, CDCR, and CSP-SAC'S elected and non-elected officials. At
8 all relevant times, Defendant DOE 9 acted under color of law, to wit, under the color
9 of the statutes, ordinances, regulations, policies, customs, and usages of the State of
10 California, CDCR, and CSP-SAC and under the color of the statutes and regulations
11 of the State of California. At all relevant times, Defendant DOE 9 acted within the
12 course and scope of his or her employment with CSP-SAC, including concerning
13 the means by which the life and safety of inmates were secured and protected, the
14 manner in which threats to the life and safety of an inmate were to be acted upon,
15 what safeguards were in place to prevent inmates who posed a threat to others in the
16 facility from being permitted physical access to others, what actions were taken
17 when an inmate is attacked or injured while incarcerated, and what methods of
18 inspection and surveillance were to be used within each facility to insure prevention
19 and immediate response to prevent or lessen incidents of violence occurring in the
20 facility. Defendant DOE 9 was specifically assigned to guard, monitor, safeguard,
21 and protect Decedent in the Yard where the incident occurred. Defendant DOE 9
22 was and is responsible for the reckless disregard for the life and safety of Decedent
23 by his or her actions and inactions in allowing the violent attack to occur and failing
24 to timely stop it. Defendant DOE 9 was armed with a rifle capable of being utilized
25 and specifically trained to be utilized to protect Decedent from the substantial risk of
26 death or serious bodily injury when being attacked by inmates but failed to use any
27 force as required under these circumstances. On information and belief, Defendant
28 DOE 9 is and was at all relevant times a resident of this judicial district.

1 33. Upon information and belief, at all relevant times, Defendant DOES 6-
2 10 (or “Correctional Officer DOES”), were and are in their individual capacities,
3 duly appointed agents of CDCR and CSP-SAC, subject to the oversight and
4 supervision of the State of California, CDCR, and CSP-SAC’S elected and non-
5 elected officials. Defendant DOES 6-10 were Correctional Officers charged with the
6 security and protection of Decedent from Assailants, including as sentries on the
7 ground and in elevated positions armed with lethal and less-lethal weapons. At all
8 relevant times, Defendant DOES 6-10 acted under color of law, to wit, under the
9 color of the statutes, ordinances, regulations, policies, customs, and usages of the
10 State of California, CDCR, and CSP-SAC and under the color of the statutes and
11 regulations of the State of California. At all relevant times, Defendant Correctional
12 Officer DOES acted within the course and scope of their employment with CSP-
13 SAC, including concerning the means by which the life and safety of inmates were
14 secured and protected, the manner in which threats to the life and safety of an
15 inmate were to be acted upon, what safeguards were in place to prevent inmates who
16 posed a threat to others in the facility from being permitted physical access to
17 others, what actions were taken when an inmate is attacked or injured while
18 incarcerated, and what methods of inspection and surveillance were to be used
19 within each facility to insure prevention and immediate response to prevent or lessen
20 incidents of violence occurring in the facility.

21 34. Defendant Correctional Officer DOES were specifically assigned to
22 guard, monitor, safeguard, and protect Decedent in the Recreation Yard where the
23 incident occurred. Defendant Correctional Officer DOES were and are responsible
24 for their reckless disregard for the life and safety of Decedent by their actions and
25 inactions in allowing the violent attack to occur, failing to prevent Assailants from
26 arming themselves with inmate-manufactured weapons, failing to prevent the
27 coordination and planning of the attack, failing to timely stop the attack, and failing
28 to properly render medical aid to Decedent. On information and belief, Defendant

1 Correctional Officer DOES were and are at all relevant times residents of this
2 judicial district.

3 35. Upon information and belief, Defendant Correctional Officer DOES
4 had specific personal knowledge as CO's assigned to various the protect the
5 inmates, including with regard to Decedent and Assailants, within the specific
6 housing units and associated yards in question and from being assigned to attend
7 UCC's, of inmates' criminal history, gang affiliation, violent disposition, enemies
8 lists, and concerns for inmate safety, well in advance of this incident. Defendant
9 Correctional Officer DOES were deficient and deliberately indifferent in their
10 failure to protect Decedent knowing that there as a substantial likelihood he would
11 be exposed to the attack of Assailants.

12 36. CDCR manages and operates state prisons, including CSP-SAC, where
13 Decedent was housed during this incident. At all relevant times, CDCR and CSP-
14 SAC were the employers of the Individual Defendants.

15 37. Plaintiff is ignorant of the true names and capacities of Defendants sued
16 herein as Defendant DOES 1-10, inclusive, and therefore sues these Defendants by
17 such fictitious names. Plaintiff is informed, believes, and alleges, that each of the
18 fictitiously named Defendants is legally responsible, intentionally, negligently or in
19 some other actionable manner, for the events and happenings hereinafter referred to,
20 and thereby legally caused the injuries, damages, and violations and/or deprivation
21 of rights herein alleged. Plaintiff will seek leave of Court to amend this Complaint
22 and state the true names and/or capacities of said fictitiously named Defendants
23 when those have been ascertained.

FACTS COMMON TO ALL CLAIMS FOR RELIEF

25 38. Plaintiff repeats and re-alleges each and every allegation in
26 paragraphs 1 through 37 of his Complaint with the same force and effect as if fully
27 set forth herein.

1 39. On information and belief, the Individual Defendants, including the
2 Supervisor DOES and DOES 1-10, individually knew the following were problems
3 that must be resolved in order to facilitate a safe environment at CDCR, and failed
4 to resolve them: (a) providing inmates with access to programs; (b) improving
5 access to rehabilitative programming; (c) gang management; (d) increase
6 prospective credit earnings for non-violent inmates; (e) allow non-violent inmates
7 over 50% of time served to be referred to parole consideration; (f) increase reentry
8 services; (g) implement classification changes to provide more flexibility to housing
9 environments; (h) refine which offenders require placement in level IV prisons; (i)
10 classify and house offenders to promote safety and security; (j) failing to maintain a
11 6-to-1 inmate-to-staff ratio; (k) offer graduated housing and privileges as incentives
12 for positive behavior; (l) impose consequences for gang-related behaviors; (m)
13 provide support for inmates seeking to disengage from gangs; and (n) use segregated
14 housing for gang associates and those suspected of serious disciplinary behavior.

15 40. The Individual Defendants individually knew that custody designation
16 is based on: (a) the inmate's total term; (b) the inmate's escape history; (c) any
17 active law enforcement felony holds; (d) inmates with high notoriety or public
18 interest; (e) inmates with an identified management concern typically including a
19 threat to inmates of community; and (f) a finding of guilt for a serious, felony-level
20 rule violation.

21 41. The Individual Defendants individually knew that the primary factor in
22 the increased violence was the permitted growth of prison gangs.

23 42. Upon information and belief, the Individual Defendants individually
24 the custodial factors for the housing designations for Decedent and Assailants, long
25 prior to the incident.

26 43. CDCR has had nearly \$30 Million in housing conversions for the
27 purpose of protecting inmates from violent gang-affiliated inmates and had nearly
28 \$6 Million in investigative staff to monitor gang activity in prisons. Nevertheless,

1 CDCR, through the individual Defendants, consistently fails to protect inmates from
2 gang-affiliated inmates and fails to prevent gang activity.

3 44. The Individual Defendants individually knew that “Programming” to
4 reduce recidivism, and transition offenders into contributing members of society
5 includes: academic education (diplomas and degrees); other education (e.g., Arts-in-
6 Corrections for possible impact on inmate behavior, critical thinking, positive
7 relationship building, and healthy behavior); career technical education (trade
8 certificates, computer familiarity); cognitive behavioral treatment; substance use
9 disorder treatment (reduce gang activity, reduce violence); and transition programs
10 (job readiness, job search, financial literacy, obtaining state-issued identification
11 cards, etc.).

12 45. Decedent engaged in Programming while at CSP-SAC, was a short-
13 timer set to be released between on or around December 19, 2022, received
14 Educational Merit Credit, and attended classes with Mary B. Perry High School
15 while in custody. Despite the shot time prior to his scheduled release, out of fear for
16 his safety, he had made a special request for an attorney to help him get out sooner.

17 46. Upon information and belief, during his term, Decedent had no record
18 of violence or disobedience. Decedent attempted to avoid contact with active gang
19 members and was not a gang member himself. He attended Mary B. Perry High
20 School while he was incarcerated, earning his diploma in November of 2019. He
21 received numerous recognitions from the CDCR, including a certificate of
22 completion of the GEO Reentry Substance Abuse Treatment Program. Such
23 participation in rehabilitative and educational coursework is known by Defendants
24 to be discouraged, disallowed, stigmatized, and or frowned upon by members and
25 associates of all prison and street gangs, making such participants targets of attack.

26 47. Upon information and belief, inmates at CDCR, like Decedent, are
27 specifically encouraged to avoid gang activities and drop out of gang affiliation for
28 the rehabilitative goals of CDCR, and for the safety, security, and management of

1 operations at CDCR. As a result of this encouragement, it is understood by inmates
2 and CDCR staff that inmates who are not active gang members will be separated
3 from active gang members and protected from such gang members. It is common
4 knowledge that active street-gang members, including the Surenos, which at least
5 some of the Assailants belong, are housed as GP inmates.

6 48. Upon information and belief, the Assailants did not engage in
7 Programming at CSP-SAC and or CDCR.

8 49. The Individual Defendants individually knew that gang-affiliated
9 inmates target for attack inmates who engage in Programming, and who are short-
10 timers, and view them as vulnerable.

11 50. Safety and security are supposed to be of paramount importance to the
12 Individual Defendants. To create a safe environment for inmates, the Individual
13 Defendants must but failed to foster a positive atmosphere that promotes
14 rehabilitation. Specifically, officials must control and eliminate drugs and
15 contraband, especially inmate manufactured weapons. It is well known to the
16 Defendant Officials that the use of drugs by inmates presents a serious threat to the
17 safety and security of CDCR institutions. Drug trafficking increases assaults, creates
18 power struggles within the inmate population, creates underground economies,
19 reduces programming benefits and adherence, and negatively impacts inmates'
20 mental health. Interdiction must include drug interdiction officers, x-ray machines at
21 all entrances, drug and contraband detection canines, ION mobility spectrometry
22 technology, random drug urinalysis of inmates, video surveillance equipment in
23 visitation rooms, and access to substance use disorder treatment. CDCR has been
24 given approximately \$8 Million to control drugs and contraband from entering
25 prisons, for more staff and package inspections. Nevertheless, the individual
26 Defendants consistently failed to create a safe environment for Decedent.

27 51. Camera presence itself is a deterrent from violent and illegal behavior.
28 Video recording assists with the prosecution of rule violators. However, video

1 monitoring is of specific importance for successful deterrence, reduction of negative
2 behavior, and inmate safety. It allows Correctional Officers to respond prior to
3 violence to stop an attack from occurring and at the least allows Correctional
4 Officers to respond more quickly and appropriately to a violent attack. Video use
5 and monitoring is most important in Level IV facilities, which house the longest-
6 term offenders, and the most violent offenders. Body-worn cameras are particularly
7 important to address staff and inmate misconduct, increase staff accountability and
8 professionalism, ensure ethical behavior and protection of inmates. Prior to this
9 incident, it was required for Correctional Officers to wear a BWC and it was known
10 that BWCs, at a minimum, provides evidence and transparency in resolving
11 allegations of staff and inmate misconduct, use of force, and distribution of
12 contraband. High-quality visual recordings of incidents serve as significant evidence
13 in investigations as well as in administrative, civil, or criminal proceedings. The
14 existence of audio and video evidence improves the department's ability to
15 successfully conduct and conclude investigations compared to investigations that are
16 reliant solely on eyewitness testimony. It is important that the BWC remain on as
17 much as possible in order to capture any incidents or problems that need to be
18 addressed and to resolve any discrepancies. This will help to ensure honest practices
19 and adherence to department rules, which will increase safety and security within
20 the institutions. Nevertheless, the individual Defendants consistently failed to have
21 and/or monitor videos and failed to implement reasonable measures to prevent,
22 deter, or monitor threatening gang-affiliated inmates' activities, such as Assailants,
23 which threaten the life and safety of vulnerable inmates such as Decedent.

24 52. Cell phone blocking technology is increasingly important for the safety
25 of inmates. It prevents illegal communication between inmates planning an attack or
26 other illegal activity. CDCR Officials know that cell phones in prisons create
27 considerable risk to institution security. Nevertheless, the individual Defendants
28 consistently failed to block, search for, and confiscate cell phones.

1 53. At the time of the incident, CSP-SAC had a total bed capacity of 2,597
2 according to the Blueprint Overcrowding Capacity, but nevertheless a total of 3,394
3 maximum bed capacity. At the time of the incident, there were approximately 2,010
4 inmates at CSP-SAC, equating to approximately 23% vacancy, with 1,817 inmates
5 classified with a score of 160 or higher designated as Inmate Level IV. The General
6 Population (“GP”) capacity was 1,248 with only 1,010 inmates in GP. Additionally,
7 there were 906 inmates serving life sentences—of those includes the Assailants and
8 does not include Decedent.

9 54. In the month of May 2022, when the incident occurred, there was an
10 average of 18.21 Inmate Disciplinary actions, including 6 assaults, 52 batteries (3
11 with a deadly weapon), the second highest month in that fiscal year. Interestingly,
12 from November 2021 to November 2022, there was merely 2 disciplinary actions
13 for possession of controlled substance, no disciplinary actions for unauthorized
14 possession of drug paraphernalia, no disciplinary actions of under the influence of a
15 controlled substance, and no disciplinary actions for distribution of a controlled
16 substance, despite there being 314 grams of heroin seized, 419.8 grams of marijuana
17 seized, 620.91 grams of methamphetamine seized, and 381.8 grams of tobacco
18 seized—just in May 2022. Interestingly, every month that there was a seizure
19 event—heroin, marijuana, methamphetamine, and tobacco was found—yet CSP-
20 SAC fails to check even monthly. There were 15 disciplinary actions for possession
21 of a cell phone, averaging 11 per month for the 6 months prior to the incident,
22 despite there being 22 cell phone seizure events with 39 cell phones seized. There
23 were 25 disciplinary actions for fighting, averaging 18.5 per month in the 6 months
24 prior to the incident. There were 6 disciplinary actions for possession or attempted
25 manufacture of a deadly weapon, averaging 7 per month in the 6 months prior to the
26 incident. Despite this incident, there was no disciplinary action taken between May
27 and November 2022 for murder, and no lockdowns recorded at CSP-SAC.
28

1 55. At all relevant times, Defendants Collins, Angulo, Herrera, Arnold,
2 Castillo, Ponce, and DOES 1-5 (“Classification Officers”) had the responsibility as
3 members and contributors to the UCC hearing for Decedent and Assailants to
4 determine their proper designation and housing and ultimately how Decedent would
5 be protected from Assailants while in custody at CSP-SAC. Defendant
6 Classification Officers had the responsibility to review all of Decedent’s and
7 Assailants’ historical records available and compile all case factors relevant to each
8 of their safety and security in a “Classification Committee Chrono”. Defendant
9 Classification Officers also had the responsibility to present all relevant case factor
10 information to the UCC so that the Committee could make a proper and informed
11 decision based on Decedent’s individual safety and security concerns and to ensure
12 that Decedent was adequately protected while in the custody and control of CDCR
13 and its officials. Nevertheless, Defendant Classification Officers showed deliberate
14 indifference and a conscious disregard by failing to review all of Decedent’s
15 historical records to compile all relevant case factors into the Chrono and therefore
16 failing to present all relevant information to the UCC, intentionally or recklessly
17 omitted critical information related to Decedent’s safety and security concerns,
18 intentionally or recklessly presented only case factors related Decedent’s rule’s
19 violations as opposed to his vulnerability and safety. Defendant Classification
20 Officers’ knowing, and reckless failures created the environment and dangerous
21 condition that failed to protect Decedent, which was a substantial factor in causing
22 his ultimate injury and death.

23 56. On July 28, 2015, at 16 years’ old, Decedent was sentenced in San
24 Bernardino County to serve eight years. He was arrested as a minor for merely being
25 in a house where guns were sold, despite not being part of a gang. On May 25, 2017,
26 after he turned 18 years old, Decedent was transferred and admitted to CDCR.

27 57. While at CSP-SAC, Decedent was in fear of his life and made an effort
28 to be released as soon as possible. Decedent requested an interview with Defendant

1 Correctional Officers several times to ensure that all his educational and other
2 credits were calculated correctly so that there was no delay in his release.

3 58. On March 17, 2017, Principal of Mary B. Perry High School, Martin
4 Griffin, from the CDCR Division of Juvenile Justice, Century Youth Correctional
5 Facility, notified Plaintiff that Decedent was making progress in all courses from
6 2016 to 2017 semesters.

7 59. On November 8, 2017, Decedent earned and received a Certificate of
8 Completion from CDCR, a GEO Substance Use Disorder Treatment Program,
9 “Participant of the Week” Certificate, signed by Program Director Janice Higgins
10 BA CATC III of CDCR and Decedent’s Transitional Counselor Ms. Ponce.

11 60. On January 29, 2018, Decedent earned and received a Certificate of
12 Completion from CDCR’s Office of Offender Services, for completing the GEO
13 Reentry Substance Abuse Treatment Program, signed by Program Director Janice
14 Higgins BA CATC III of CDCR and Decedent’s Correctional Counselor III Yvette
15 Castillo.

16 61. On May 21, 2018, San Bernardino County Probation Officer II William
17 Brown, notified Decedent that he may be eligible for an Honorable Discharge from
18 CDCR, Division of Juvenile Justice (“DJJ”) pursuant to Welfare and Institutions
19 Code §1178(a), because Decedent met the following requirements: (i) it had been 18
20 months or more since discharge from DJJ; (ii) he completed his County probation
21 term; (iii) he showed the ability to desist from criminal behavior; and (iv) he
22 initiated a successful transition into adulthood.

23 62. On November 7, 2019, Decedent earned and received from the State of
24 California State Board of Education, his Diploma of Graduation for the satisfactory
25 completion of High School.

26 63. Upon information and belief, the Assailants were and are dangerous
27 gang-affiliated inmates serving life sentences for crimes such as murder, committing
28

1 a street gang act in commission of a violent felony, assault with a firearm, and
2 enhancements for use of a firearm.

3 64. Assailant Avila, was a 39-year-old male, admitted from San Diego
4 County to CDCR on February 16, 2017, to serve life with the possibility of parole
5 for first-degree murder, a third strike; possessing/owning a firearm with a violent
6 felony conviction, a second strike; possession of ammunition by a prohibited person;
7 attempting first-degree murder, a third strike; and enhancements for the intentional
8 discharge of a firearm causing great bodily injury/death.

9 65. Assailant Avila was also sentenced in CSP-SAC in 2021 to serve 11
10 years for assault by a prisoner with a deadly weapon or force likely to produce great
11 bodily injury, an in-prison, second strike offense. Like here, during this attempted
12 murder of an inmate, Assailant Avila specifically targeted, in coordination with
13 other gang affiliates, a vulnerable inmate, who was a gang drop-out, in protective
14 custody, and was attempting to take classes to better his life. Like here, in that
15 attempted murder, Assailant Avila and his cohorts were not assigned to the same
16 housing unit as their victim. Assailant Avila and his cohorts waited in the yard for
17 their victim to pass by, knowing that CDCR and CSP-SAC have minimal guards on
18 duty, who will not intervene to stop an attempt on the life of another inmate.

19 66. The individual Defendants specifically knew of the prison dynamics
20 and politics that made certain inmates vulnerable to attack by others identified as
21 dangerous. Defendants each knew the specific risks inmates face while being housed
22 at CSP-SAC and were charged with implementing the appropriate training, policy,
23 and supervision programs to ensure their Classification Committee members and
24 Correctional Officers are properly assessing threats and protecting inmates under
25 their care. Defendants knew that placing a young man, soon to be released, without
26 gang affiliation, who is participating in rehabilitation programs would be at specific
27 risk of substantial harm, including life-threatening harm by the hands of active gang
28 members.

1 67. Defendants specifically knew how CSP-SAC was designed and how
2 the housing units therein were structured, including who would be housed in each
3 housing unit based on those individual inmates' needs and risk factors. Further, said
4 Defendants specifically knew that inmates that were not housed together,
5 specifically because of security and protection concerns, would be forced to cross
6 paths with and be in locations with those inmates who pose a substantial risk of
7 harm to them. Nevertheless, with deliberate indifference said Defendants failed to
8 restructure, failed to redesign, and failed to reorganize the housing unit assignments
9 so that vulnerable inmates such as Decedent were not forced to be in the same yard
10 as those inmates who pose a substantial risk of harm to them.

11 68. Defendants generated and instituted the grossly inadequate custom,
12 practice and training, including at CSP-SAC, causing Defendant Classification and
13 Correctional Officers to erroneously believe that they had no choice but to designate
14 inmates in such areas within CSP-SAC where vulnerable inmates such as Decedent
15 were forced to be in the same yard as those inmates who pose a substantial risk of
16 harm to them.

17 69. Defendants generated and instituted the grossly inadequate custom,
18 practice and training, including at CSP-SAC, that allowed known to be violent and
19 deadly inmates, with records of in-custody rules violations, to manufacture
20 weapons, including weapons that are created from tools issued by CSP-SAC staff to
21 inmates, carry said weapons into recreational yards, and use said weapons on other
22 inmates.

23 70. Defendants generated and instituted the grossly inadequate custom,
24 practice and training, including at CSP-SAC, that allowed inmates with different
25 classification statuses to be in a recreation yard simultaneously, without adequately
26 numbers of Correctional Officers to protect against violent attacks, without
27 adequately equipping Correctional Officers with the appropriate tools de-escalate or
28 intervene in any violent attacks, and without adequate personal and electronic

1 surveillance to deter attacks from occurring and deter future occurrences by
2 investigate thereafter and punishing those responsible.

3 71. Upon information and belief, prior to this incident, Defendants knew
4 that there were problems with informing staff (including custodial officers and
5 counselors) of the criteria for inmate designations and a lack of meaningful
6 individualized assessment for inmates under their care; knew that staff had a long-
7 standing history of failure to analyze housing compatibility between prisoners; knew
8 that staff had a long-standing history of failing to screen, train, and professionalize
9 staff; knew that staff had a long-standing history of failing to keep prisoners
10 occupied with pro-social activities and encourage rehabilitative behavior; knew that
11 staff had a long-standing history of failing to take steps to reduce violence in the GP
12 yards; knew that non-gang members are particularly vulnerable to attack; and knew
13 that GP/gang-affiliated inmates “green-light” non-gang member inmates (which is
14 common prisoner vernacular for permission to kill a person on sight).

15 72. Upon information and belief, prior to this incident, Defendants were
16 responsible for and failed to develop and implement a plan to keep inmates safe,
17 such as Decedent, to include a sufficient number of custodial officers present in
18 yards; sufficient number of evidence-based programs that reduce recidivism and
19 violence; the careful screening, selection, hiring, and training of custodial staff
20 interacting with vulnerable inmate populations to create a culture of
21 professionalism; and to get gang shot-callers, drugs, weapons, and cell phones out of
22 inmates’ hands and out of the yards.

23 73. Upon information and belief, prior to this incident, Defendants knew
24 that UCC hearings are a mere check in the box, knowing that staff take only an
25 average of 10 minutes to conduct hearings, without the participation of members
26 present, and without adequate time to participate, without participation of the
27 inmate, and without discussing, evaluating, and inquiring into all relevant case
28 factors for inmates, and without voicing any concerns and recommendations.

1 74. At all relevant times, Defendant Classification Officers had the
2 responsibility of Chairperson, Recorder, and committee member of the UCC
3 hearings for Decedent and Assailants to determine their designation and housing and
4 ultimately how Decedent would be protected while at CSP-SAC. Defendant
5 Classification Officers had the specific responsibility to review all of Decedent's
6 and Assailants historical records available and compile all case factors relevant to
7 Decedent's safety and security in a Classification Committee Chrono. Defendant
8 Classification Officers also had the responsibility to present all the relevant case
9 factors to the UCC so that the Committee could make a proper and informed
10 decision based on Decedent's individual safety and security concerns. Nevertheless,
11 Defendant Classification Officers showed deliberate indifference and a conscious
12 disregard when they failed to review all of Decedent's historical records to compile
13 all relevant case factors into the Chrono and for the presentation of information at
14 the UCC, and intentionally or recklessly omitted critical information related to
15 Decedent's safety and security concerns. Defendant Classification Officers
16 knowingly and recklessly created the dangerous condition that failed to protect
17 Decedent, which was a substantial factor in causing his ultimate injury.

18 75. Defendants Classification Officers were required to, yet failed to, use
19 their custodial experience and training, correctional awareness, and a sense of
20 correctional reasonableness to determine an inmate's suitability for dormitory, cell,
21 and housing assignment. Defendants were required to, yet failed to, be cognizant of
22 all available factors when determining an inmate's assignment including: length of
23 sentence, enemies, victimization history, criminal influence, vulnerability of the
24 inmate, reasons for segregation, any suffix determination, history of violence,
25 security threat group affiliation, nature of past offenses, and adaptive support needs.

26 76. Upon information and belief, prior to this incident, Defendant
27 Classification Officers personally attended and presided over Assailants' Initial
28 UCC and/or Annual UCC hearings. Thus, Defendant Classification Officers

1 subjectively knew that each Assailant had a particularly violent history, was willing,
2 capable, and had a history of attempting to murder or murdering others, would act
3 with disregard for the rules of a correctional facility, would utilize manufactured
4 weapons to carry out violent and deadly gang activities, were serving long-term or
5 life sentences, and had gang affiliations.

6 77. Upon information and belief, prior to this incident, Defendant
7 Classification Officers therefore knew that Assailants posed a substantial risk of
8 harm to Decedent. Nevertheless, Defendants designated Decedent such that he
9 would be forced to be in the yard where he would not be segregated from those
10 known to be a threat to him, and where he was ultimately attacked and killed.

11 78. On May 6, 2022, at approximately 11:30 a.m., under the direct
12 supervision of Defendant Correctional Officers, Decedent was attacked and killed
13 on the recreation yard at CSP-SAC by the above-mentioned four inmate Assailants
14 with several inmate manufactured deadly weapons.

15 79. On May 6, 2022, Defendant Correctional Officers were responsible for
16 monitoring the Recreation Yard including the Assailants programming and where
17 Decedent was escorted by said Defendants.

18 80. Upon information and belief, Defendant Correctional Officers also
19 were assigned to the Observation Tower of the yard with the specific responsibility
20 of controlling, safeguarding, and protecting inmates on the yard. Further, said
21 Defendants were armed with .40 mm less-lethal baton launchers, that could also be
22 used as a deadly force option depending on the manner in which it is deployed, and
23 a Mini 14 rifle as a deadly force option specifically designed and officers trained to
24 use to stop an immediate threat of death or serious bodily injury. Further, Defendant
25 Correctional Officers were assigned elevated control booth positions, which are also
26 armed posts specifically intended to oversee the Recreation Yard.

27 81. Upon information and belief, Defendant Correctional Officers were
28 present in the yard or in the Sentry positions during the attack on Decedent. Further,

1 Defendant Correctional Officers failed to use adequate and appropriate tactics,
2 communication, and reasonable force to stop the threat of Assailants' attack.

3 82. Pursuant to basic officer training and CDCR policies, deadly force is
4 authorized to prevent an imminent threat of death or serious bodily injury.
5 Defendants were specifically aware of the attack as it was occurring, and aware that
6 Decedent was in the process of being stabbed to death. As the 4 Assailants
7 approached Decedent, Defendant Correctional Officers, knew Assailants each posed
8 an imminent threat of death or serious bodily injury to Decedent. Then, as the 4
9 Assailants began stabbing and/or attacking Decedent, Defendants knew that each
10 Assailants posed an imminent threat of death or serious bodily injury to Decedent.
11 Upon information and belief, each of the present Defendant Correctional Officers
12 failed to use proper force, including deadly force, to prevent the attack and save
13 Decedent from the substantial likelihood of death or serious bodily injury.

14 83. At all relevant times herein, Defendants failed to inspect, search, and
15 supervise GP inmates to prevent the manufacturing, carrying, and use of inmate
16 manufactured deadly weapons, and the communication, planning and coordination
17 of attack on other inmates.

18 84. At the time of the homicide, three of the Assailants, Rodriguez,
19 Velasquez, and Avila, were serving sentences for prior in-prison offenses or
20 assaults. Avila and Velasquez were serving life sentences.

21 85. Upon information and belief, this incident was the third homicide by
22 inmates within a week within CDCR – all three involved inmate manufactured
23 deadly weapons, all three in so-called maximum-security prisons, and all three in a
24 recreational yard.

25 86. The defendants in this case include high-ranking officials in the CDCR
26 including Supervisor Defendants at California State Prison, Sacramento. These
27 individuals held high positions of responsibility and oversight over the prison's
28 operations and safety protocols.

1 87. The mission of CDCR and CSP-SAC is to serve the public by safely
2 and humanely housing maximum and high-security offenders, as well as those
3 requiring specialized mental health programming and high-risk medical concerns.
4 However, the Plaintiff alleges that this mission was not fulfilled in the case of
5 Decedent.

6 88. The Defendants were supposed to provide protection but failed to do so
7 with deliberate indifference to the life and safety of Decedent, rehabilitative
8 opportunities through educational programming, vocational training, self-help
9 programs and mental health treatment, which are supposed support an individual's
10 transition from prison and successful reintegration back into the community.

11 89. Despite CSP-SAC being a Level IV institution, Decedent and several
12 other inmates were fatally attacked by fellow inmates, raising serious questions
13 about the prison's adherence to its stated mission and commitment to safety.

14 90. For approximately ten years prior to the incident, CSP-SAC averaged
15 two deadly force attacks by inmates on other inmates per month and less than 1% of
16 those deadly attacks were attempted to be stopped with deadly force despite it being
17 authorized. Of the 452 inmate deaths in all CDCR institutions in 2018, 96.7% were
18 male, the third most common cause of death was drug overdose, and the sixth most
19 common cause of death was suicide or homicide. The life expectancy while in
20 CDCR prisons for a male in 2018 was 55.9 years, as opposed to the 76.3-year life
21 expectancy of American males in 2016. Defendants were aware of this increase in
22 inmate violence at CDCR.

23 91. In 2018, CDCR knew that the California Office of the Inspector
24 General ("OIG") rated CSP-SAC as inadequate. Between July 1, 2017, and June 30,
25 2019, the OIG received 6,009 complaints of improper governmental activities. In
26 2018 alone, the OIG received 3,270 allegations of improper governmental activities,
27 over 75% of which included staff misconduct and unacceptable prison conditions
28 and operations. Allegations investigated by the OIG included but were not limited to

1 staff improperly rescinding sentence credits; staff failing to apply loss of credits; and
2 staff delaying in restoring inmate credit. The OIG determined that 58% of the
3 complaints reviewed were handled inadequately including but not limited to hiring
4 authorities not performing inquiries; reviewers failing to conduct sufficient
5 interviews or failing to consider all relevant information; and reviewers lacking
6 independence or displaying bias. Disproportionately, 29% of the institutions (nearly
7 all Level IV institutions including CSP-SAC) accounted for 54% of the allegations.
8 CSP-SAC ranked 6/35 of CDCR's institutions in complaints.

9 92. As a direct and proximate result of the deliberate indifference,
10 wrongful conduct, and negligence of the Defendants, Plaintiff has suffered and
11 continues to suffer the loss of her son, resulting in Plaintiff's economic and non-
12 economic damage in amounts to be proven at the time of trial.

13 93. As a direct and proximate result of the deliberate indifference, wrongful
14 conduct, and negligence of the Defendants, Decedent endured severe pain and
15 suffering, loss of life, and loss of opportunity and enjoyment of life.

16 94. On or about October 27, 2022, Plaintiff submitted the proper State of
17 California Government Claim Form describing her loss. As of December 11, 2022,
18 Plaintiff's claim was rejected by operation of law.

19 95. Pursuant to 42 U.S.C. 1988(b), Plaintiff is entitled to recover
20 reasonable attorney fees incurred herein.

FIRST CLAIM FOR RELIEF

Failure to Protect in Violation of the Eighth Amendment

(Survival Action under 42 U.S.C. §1983)

(By Plaintiff against Individual Defendants)

25 96. Plaintiff repeats and re-alleges each and every allegation in paragraphs
26 1 through 95 of this Complaint with the same force and effect as if fully set forth
27 herein.

1 97. Defendants acted under color of state law within the course and scope
2 of their duties to secure and manage CSP-SAC facilities when they and/or their
3 agents deliberately allowed other inmates in the facility to physically assault
4 Decedent.

5 98. The Eighth Amendment to the United States Constitution prohibits
6 “cruel and unusual punishments,” thereby imposing numerous duties on corrections
7 officials, including but not limited to, a duty to take reasonable measures to protect
8 prisoners from violence at the hands of other prisoners. *Farmer v. Brennan*, 511
9 U.S. 825, 833 (1994); *Cortez v. Skol*, 776 F.3d 1046 (9th Cir. 2015).

10 99. The substantial risk of serious harm posed by gang-affiliated and
11 extremely dangerous inmates to the Decedent’s health and safety under the
12 circumstances alleged herein was known and obvious to the Defendants. Further, as
13 alleged above, Defendants failed at every stage of Decedent’s time in CSP-SAC to
14 take reasonable measures to abate the risk Decedent faced. Instead, Defendants
15 assigned Decedent to a yard integrated with gang-affiliated inmates; then failed to
16 secure, safeguard, prevent and protect Decedent from attack of the inmates when
17 Decedent stepped into that integrated yard.

18 100. A reasonable officer would not have failed to perform contraband
19 searches to ensure that gang-affiliated inmates known to be dangerous are not armed
20 with deadly weapons when entering a yard, especially an integrated yard, especially
21 a yard also occupied by vulnerable inmates such as Decedent. Yet Defendants acted
22 with deliberate indifference when they failed to ensure gang-affiliated inmates were
23 not armed with deadly weapons while in an integrated yard with Decedent as
24 alleged herein.

25 101. A reasonable agent would not have failed to properly evaluate, screen,
26 and ensure the welfare and safety of Decedent before housing him in an integrated
27 yard without the substantial risk of serious injury based on threats to him,
28 individually and in the cumulative, because of Decedent case and custody factors

1 enumerated herein. Yet Defendants acted with deliberate indifference when they
2 failed to properly evaluate, screen, and ensure the welfare and safety of Decedent as
3 alleged herein.

4 102. A reasonable officer would not have failed to prevent gang-affiliated
5 inmates known to be dangerous to be armed with deadly weapons when entering a
6 yard, especially an integrated yard, especially a yard also occupied by vulnerable
7 inmates such as Decedent. Yet Defendants acted with deliberate indifference when
8 they failed to ensure gang-affiliated inmates were not armed with deadly weapons
9 while in an integrated yard with Decedent as alleged herein.

10 103. A reasonable officer would not have failed to search inmates for
11 contraband to ensure that gang-affiliated inmates known to be dangerous are not
12 armed with deadly weapons when entering a yard, especially a yard also occupied
13 by vulnerable inmates such as Decedent. Yet Defendants acted with deliberate
14 indifference when they failed to ensure gang-affiliated inmates were not armed with
15 deadly weapons while in an integrated yard with Decedent as alleged herein.

16 104. A reasonable officer would not have failed to prevent known gang
17 members from conjugating together to form a plan and coordinated attack on
18 Decedent. Yet Defendants acted with deliberate indifference when they failed to
19 stop known gang members from forming and executing a plan to attack Decedent
20 armed with deadly weapons while in an integrated yard as alleged herein.

21 105. A reasonable officer would not have failed to have adequate tools and
22 equipment readily available to prevent and stop an attack involving the immediate
23 risk of death or serious bodily injury. Yet Defendants acted with deliberate
24 indifference when they failed to ensure CDCR staff were equipped with tools and
25 trained to properly intervene to stop the brutal deadly force used against Decedent.

26 106. A reasonable officer and counselor would have simply restructured
27 CSP-SAC Facilities to accommodate complete segregation of gang-affiliated
28 inmates from general population inmates, which was previously instituted to protect

1 the vulnerable inmates from the substantial risk of harm. Instead, they integrate the
2 dangerous gang-affiliated inmates and hope that they will follow the rules of the
3 institutions. Yet Defendants acted with deliberate indifference when they chose to
4 integrate vulnerable inmates such as Decedent, with dangerous inmates such as his
5 assailants, knowing the substantial risk of harm to the vulnerable inmates by the
6 gang-affiliated dangerous inmates.

7 107. A reasonable officer in each of the Defendants' positions would have
8 appreciated the high degree of risk that Decedent faced under the conditions they
9 created, making the consequences of their conduct obvious. In other words, it was
10 obvious that Decedent would be attacked and stabbed by gang affiliated-inmates
11 because young inmates like Decedent who are being released early are known to be
12 targeted by gang-affiliated inmates serving life sentences.

13 108. Defendants knew of and were deliberately indifferent to the risk that
14 the assailants posed to Decedent because, by not taking the reasonable available
15 measure to abate the risk that Decedent faced, Defendants caused and/or each were a
16 substantial factor in causing Decedent's injuries, harm, death and damages.

17 109. Even in the face of such knowledge, Defendants did not take measures
18 to stop the attack or act in any way to prevent harm to Decedent.

19 110. Defendants allowed each of the four assailants to be present and armed
20 in proximity to Decedent.

21 111. Defendants did not intervene in and or protect Decedent from imminent
22 threat of death or serious bodily injury. Instead, Defendants stood by and observed
23 while Decedent was brutally beaten and stabbed by four assailants in plain view of
24 several correctional officers.

25 112. Defendants acted intentionally, recklessly and with deliberate
26 indifference, subjecting Decedent to conditions that posed a substantial risk of
27 serious harm and in fact resulted in death.

28

1 113. As a direct and proximate result of the foregoing, Decedent was killed
2 and died in an incredibly painful way. Losing her son, Plaintiff has sustained
3 profound injury and damage, both economic and non-economic, as set forth herein.

4 114. Defendants gave insufficient review and indeed deliberate indifference
5 to the critical case, custody, and determinant factors of the four assailants who, as
6 prisoners, attacked Decedent in a coordinated manner on May 6, 2022, so as to
7 allow the integration of each of alleged assailants onto the yard at CSP-SAC where
8 they attacked and killed Decedent.

9 115. Defendants personally gave inadequate or insufficient consideration
10 and indeed were deliberately indifferent to the critical case factors and determinants
11 for the assailants Albert Calvillo, Irvin Rodriguez, Osbaldo Velasquez, and Jose
12 Avila, as to allow each inmate to be in the same yard as Decedent, a vulnerable
13 young man nearly released from prison, and when actual injuries to Decedent arose
14 from such deliberate indifference.

15 116. Improper living conditions constitute cruel and unusual punishment
16 under the Eighth Amendment since those conditions amount to a serious deprivation
17 of the minimal civilized measures of life's necessities. Such basic human needs
18 include personal safety – Defendants acted with deliberate indifference to the
19 deprivations.

20 117. The conduct of the Defendants was malicious, wanton, oppressive, and
21 accomplished with a conscious disregard for the rights of Decedent in that
22 Decedent's constitutional rights were intentionally deprived and violated, and/or
23 there was reckless disregard for the constitutional rights of Decedent. As such, their
24 conduct as alleged herein entitles Decedent an award of exemplary and punitive
25 damages from the Defendants. Plaintiff brings no action for punitive damages
26 against Defendant CDCR or CSP-SAC.

27
28

1 118. Plaintiff seeks survival damages, including Decedent's pre-death pain
2 and suffering, loss of enjoyment and opportunity of life, and loss of life. Plaintiff
3 also seek attorneys' fees pursuant to 42 U.S.C. § 1988 and costs of suit.

SECOND CLAIM FOR RELIEF

Denial of Familial Relationship, Due Process – Violation of the Fourteenth Amendment (Plaintiff's Individual Rights under 42 U.S.C. §1983)

(By Plaintiff against Individual Defendants)

8 119. Plaintiff repeats and re-alleges each and every allegation in paragraphs
9 1 through 118 of this Complaint with the same force and effect as if fully set forth
10 herein.

11 || 120. The Defendants acted under the color of state law at all relevant times.

12 121. “It is well established that a parent has a ‘fundamental liberty interest’
13 in ‘the companionship and society of his or her child’ and that ‘[t]he state’s
14 interference with that liberty interest without due process of law is remediable under
15 [42 U.S.C. §]1983.’” *Lee v. City of Los Angeles*, 250 F.3d 668, 685 (9th Cir. 2001)
16 (quoting *Kelson v. City of Springfield*, 767 F.2d 651, 654-55 (9th Cir. 1985))
17 (alterations in original).

18 122. Plaintiff and Decedent had a cognizable interest under the Due Process
19 Clause of the Fourteenth Amendment of the United States Constitution to be free
20 from state actions that deprive her of life, liberty, or property in such a manner as to
21 shock the conscience, including but not limited to unwarranted state interference in
22 Plaintiff's relationship with her son, Decedent.

23 123. By engaging in the foregoing conduct, the Defendants deprived
24 Plaintiff of her right to a familial relationship with her son in such a manner as to
25 shock the conscience, including by failing to properly ensure Decedent's most basic
26 right to safety. This conduct violated Plaintiff's and Decedent's rights, privileges,
27 and immunities secured by the First and Fourteenth Amendments to the United
28 States Constitution.

1 124. By engaging in the foregoing conduct, Defendants were integral
2 participants and acted with deliberate indifference to the constitutional rights of
3 Decedent and Plaintiff, and with the purpose to harm unrelated to any legitimate law
4 enforcement objective. Defendants are liable to Plaintiff for the interference with
5 their familial relationship.

6 125. As a direct and proximate result of the wrongful conduct Defendants,
7 Plaintiff suffered emotional distress, mental anguish, and pain. Plaintiff has also
8 been deprived of the lifelong love, companionship, comfort, support, society, care,
9 and sustenance of Decedent, and will continue to be so deprived for the remainder
10 of her natural life.

11 126. The conduct of the Defendants was malicious, wanton, oppressive, and
12 accomplished with a conscious disregard for the rights of Decedent in that
13 Decedent's constitutional rights were intentionally deprived and violated, and/or
14 there was reckless disregard for the constitutional rights of Decedent. As such, their
15 conduct as alleged herein entitles Decedent an award of exemplary and punitive
16 damages from the Defendants. Plaintiff brings no action for punitive damages
17 against Defendant CDCR or CSP-SAC.

18 127. Plaintiff brings this claim on her own behalf and seeks wrongful death
19 damages under this claim.

20 128. Plaintiff also seeks costs and attorney's fees under this claim pursuant
21 to 42 U.S.C. §1988.

THIRD CLAIM FOR RELIEF

Negligence

(By Plaintiffs against All Defendants)

25 129. Plaintiff repeats and re-alleges each and every allegation of paragraphs
26 1 through 128, inclusive, as if fully set forth herein.

130. Correctional counselors, officers, and supervisors, including
Defendants, have a duty to use reasonable care to prevent harm and injury to

1 inmates under their care and supervision. This duty includes using appropriate
2 tactics, using ordinary care when supervising and moving inmates, using ordinary
3 care when classifying inmates, using ordinary care in the inventorying and
4 distribution of items that can be used as deadly weapons, using ordinary care in the
5 supervision of inmates, using ordinary care in the movement of inmates, and using
6 ordinary care in the supervision of especially dangerous inmates when they are
7 placed on the same yard as vulnerable inmates. These duties also include providing
8 proper training and equipment to officers so that they may perform their duties in
9 accordance with the department policies, properly classify inmates, properly
10 supervise inmates, and punish, re-train, terminate, and/or prosecute violators of
11 those policies and the law.

12 131. Defendants breached their duty of care, including in their conduct as
13 described above. Upon information and belief, the actions and inactions of
14 Defendants were negligent and reckless, including but not limited to:

- 15 a. the failure to properly and adequately classify Decedent and
16 Assailants;
- 17 b. the negligent tactics and handling of the situation with Decedent,
18 including actions before the physical attack;
- 19 c. the negligent failure to deter attacks on inmates, including by
20 having properly trained and sufficient number of custodial
21 officers on duty, and having video recordings of the yard;
- 22 d. the negligent failure to prevent dangerous inmates such as
23 Assailants from being in the same yard as vulnerable inmates
24 such as Decedent;
- 25 e. the negligent failure to prevent dangerous inmates such as
26 Assailants from having access to materials used to manufacture
27 weapons;

- 1 f. the negligent failure to prevent dangerous inmates such as
2 Assailants from having the ability to walk freely through the
3 facility with inmate manufactured weapons;
- 4 g. the negligent failure to prevent dangerous inmates such as
5 Assailants from coordinating attacks on vulnerable inmates such
6 as Decedent, including through the use of cell phones;
- 7 h. the negligent scope and manner of the supervision of Decedent,
8 an inmate known to Defendants to possess multiple critical case
9 factors that made him particularly vulnerable to attack from
10 gang-affiliated inmates;
- 11 i. the negligent failure to properly train and supervise employees,
12 both professional and non-professional, including Defendants
13 with regard to the appropriate use of force to prevent and/or stop
14 a life-threatening attack of a person;
- 15 j. the negligent failure to properly train and supervise employees,
16 both professional and non-professional, including Defendants;
- 17 k. the negligent failure to ensure that an adequate number of
18 employees with appropriate education and training were
19 available to meet the needs and protect the rights of Decedent;
- 20 l. the failure to punish, re-train, terminate, and/or prosecute
21 violators of CDCR policies and the law.

22 132. As a direct and proximate result of the Defendants' conduct as alleged
23 above, and other undiscovered negligent conduct, the Decedent was caused to suffer
24 severe mental and physical pain and suffering and caused him to lose his life.

25 133. The Defendants are directly liable for their actions and inactions
26 pursuant to Cal. Govt. Code § 820(a). Pursuant to Cal. Gov't Code §820(a), "a
27 public employee is liable for injury caused by his act or omission to the same extent
28 as a private person."

1 134. A public entity is liable for injury proximately caused by an act or
2 omission of an employee of the public entity within the scope of his or her
3 employment if the act or omission would, apart from this section, have given rise to
4 a cause of action against that employee or his personal representative.” Cal. Gov’t
5 Code §815.2(a). CDCR is vicariously liable under California law and the doctrine of
6 *respondeat superior*.

7 135. Defendants CDCR and CSP-SAC are vicariously liable for the
8 wrongful conduct of the Defendants, pursuant to section Cal. Govt. Code § 815.2(a),
9 which provides that a public entity is liable for the injuries caused by its employees
10 within the course and scope of their employment if the employee’s act would
11 subject him or her to liability. Pursuant to Cal. Govt. Code § 811.2, “public entity”
12 includes the State of California, public agencies, and any of their political
13 subdivisions in the State.

14 136. Pursuant to Cal. Code. of Civ. Pro. §§377.20, 377.30, 377.34, Plaintiff
15 brings this survival action for compensation of Decedent’s pre-death pain and
16 suffering, and disfigurement, and for punitive damages.

17 137. Pursuant to Cal. Code. of Civ. Pro. §§377.60, 377.61, Plaintiff brings
18 this wrongful death action for compensation of her past and future loss of
19 Decedent’s love, companionship, comfort, care, assistance, attention, protection,
20 affection, society, moral support, instruction, training, advice, guidance, gifts or
21 benefits, funeral and burial expenses, household services, and future financial
22 support.

23 138. Plaintiff seeks survival damages for Decedent’s death and pain and
24 suffering. Plaintiff also seeks wrongful death damages to for the loss of her son.
25 Plaintiff also seeks reasonable costs and funeral and burial expenses on this claim.

26 139. Plaintiff seeks attorneys’ fees under this claim pursuant to Cal. Code of
27 Civ. Pro. §1021.5 for enforcement of the important rights effecting the public

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1 interest that Plaintiff, Decedent, and those similarly situated have to a right to
2 familial relationship without unreasonable interference, and the right of protection.
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PRAYER FOR RELIEF

WHEREFORE, Plaintiff Margarita Sanchez requests entry of judgment in his favor and against all Defendants as follows:

- A. For compensatory damages under federal and state law, in the amount to be proven at trial;
 - B. For punitive damages against the individual defendants in an amount to be proven at trial;
 - C. For interest;
 - D. For reasonable attorneys' fees, including litigation expenses;
 - E. For costs of suit; and
 - F. For such further other relief as the Court may deem just, proper, and appropriate.

DATED: July 18, 2024

LAW OFFICES OF DALE K. GALIPO

/s/ *Marcel F. Sincich*
Dale K. Galipo
Marcel F. Sincich
Attorney for Plaintiff

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff hereby demands a trial by jury.

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4 DATED: July 18, 2024

LAW OFFICES OF DALE K. GALIPO

5
6 */s/ Marcel F. Sincich* _____

7 Dale K. Galipo

8 Marcel F. Sincich

9 *Attorney for Plaintiff*

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